

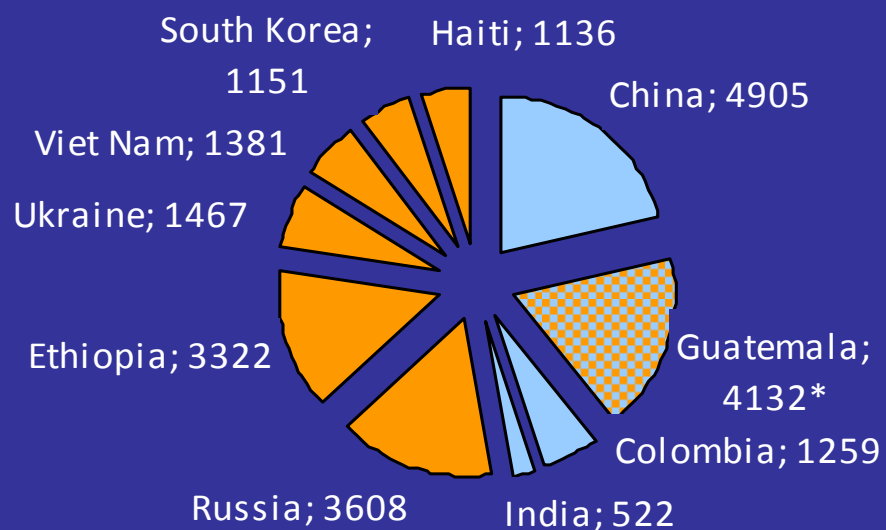


Investigating the grey zones of intercountry adoption





Number of adopted children from the first ten countries of origin for Canada, France, Italy, Spain and the USA in 2008



Total adoptions: **22,883**

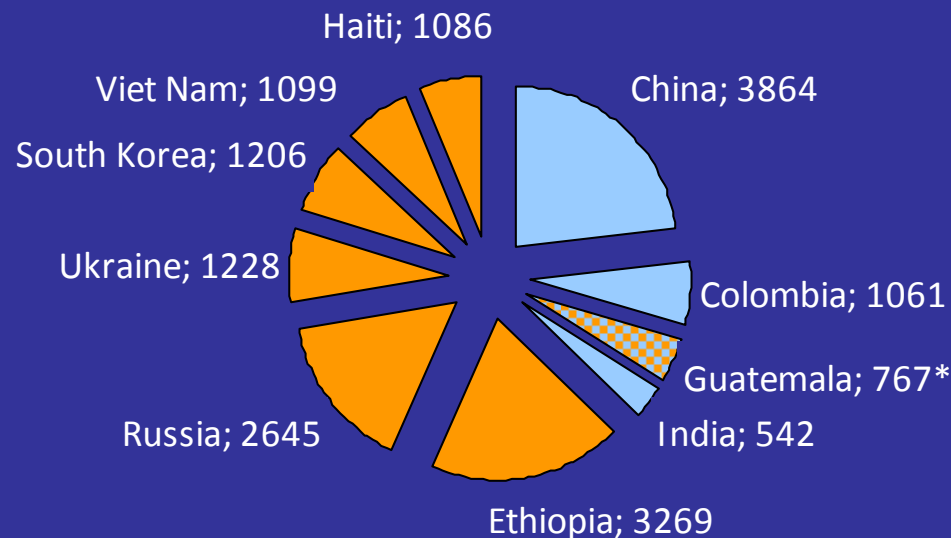
Procedures under THC-93: 6686/ **29, 2 %**

Procedures outside THC-93: 16,197/ **70, 8 %**

*Cases in transition



Number of adopted children from the first ten countries of origin for the USA, Italy, France, Sweden the Netherlands, Canada and Norway in 2009



Total adoptions: **16 767**

Procedures under THC-93: 6234/ **37, 2 %**

Procedures outside THC-93: 10 533/ **62, 8 %**

*Cases in transition



Child Trade

Steps in the adoption process	Birth of children	Child is separated from birth family	Declaration of child's adoptability	Child is matched with a prospective adoptive parent (s)	Child leaves the country of origin
The grey zones	Child trade in baby farms and in orphanages →	• Forced relinquishment or abandonment → • Child abduction after a civil war or after a natural disaster →	• Falsification of birth certificates, relinquishment documents, shady judicial acts →	The unclear role of adoption agencies and lack of professional matching →	Processing of visa and passport
Illegal practices falling within THC-93	The child's adoptability (Article 4 THC-93)	The principle of subsidiarity (Article 21 UNCRC and THC-93) and proper consent (Articles 4 & 16 THC-93)	• Improper material gain (Articles 8 & 32) • Private and independent adoptions	• Accredited and approved bodies (Article 11 etc & 22) • Matching (Articles 16-17)	Authorization to enter country and reside permanently (Article 5 c) & 17) →



Definition section

- « *traite* » in French = « *trafic* » in English
- BUT
- « *trafic* » in English \neq « *trafic* » in French



Child production includes:

- Child harvesting by gangs
- Child trade in baby farms
- Child trade in orphanages
- Child trade by officials



Child trade

- 1) Causes: demand is greater than the supply, economic reasons, specific national legislation
- 2) Safeguards: the Inter-American Convention on International Traffic in Minors, the Palermo protocol, article 35 of the CRC, OPSC
- 3) Gaps: lack of consensus regarding international definition of trafficking, existing national criminal legislation is inadequate (because they exclusively criminalise trade in human beings for purpose of exploitation and this excludes intercountry adoption)





Relinquishment/abandonment

- 1) Causes: improper consent, illiteracy, status of unwed mothers etc.
- 2) Safeguards: Article 2 CRC, The Guidelines for the Alternative Care of Children, National laws
- 3) Gaps: lack of 'real' alternatives, counselling options and implementation of retraction rights in the law





Child abduction

- 1) Causes: lack of birth registration, weaknesses in the legal system, emergency situations
- 2) Safeguards: Article 7 CRC, para 160 Guidelines for the Alternative Care of Children, Council of Europe's resolution 1422
- 3) Gaps: lack of common approach among states on how to deal with emergency situations





Child's false status

- **Falsification of birth certificates and relinquishment documents (eg: 'orphan' status)**
- **Shady judicial acts (judicial body corrupted)**



Falsification of orphan status

- 1) Causes: role of lawyers, corruption and forgery.
- 2) Safeguards: Article 7 CRC, Council of Europe's recommendation 1828 and resolution 1624.
- 3) Gaps: possession of birth certificates are not compulsory. Few countries forbid and punish the falsification of birth certificates.





Some adoption agencies have been sanctioned for:

- Harvesting children
- Tampering with relinquishment documents
- Smuggling, fraud, falsification of visas and money laundering
- Swindling prospective adoptive parents



Adoption bodies' unethical behaviour

- **1) Causes:** national framework is not efficient, adoption agencies bend THC-93 rules
- **2) Safeguards:** Articles 11 and 22.2 of THC-93, The Practical Guide No 2 under the Hague Convention
- **3) Gaps:** competition between adoption agencies, undertaking ICA for profit, lack of supervision





Recommendations





Receiving countries

- Limit the pressure
- Control the money transfers
- Establish a scale of “reasonable fees”
- Coordinate within the country (CA vs embassies) and among receiving countries

Countries of origin

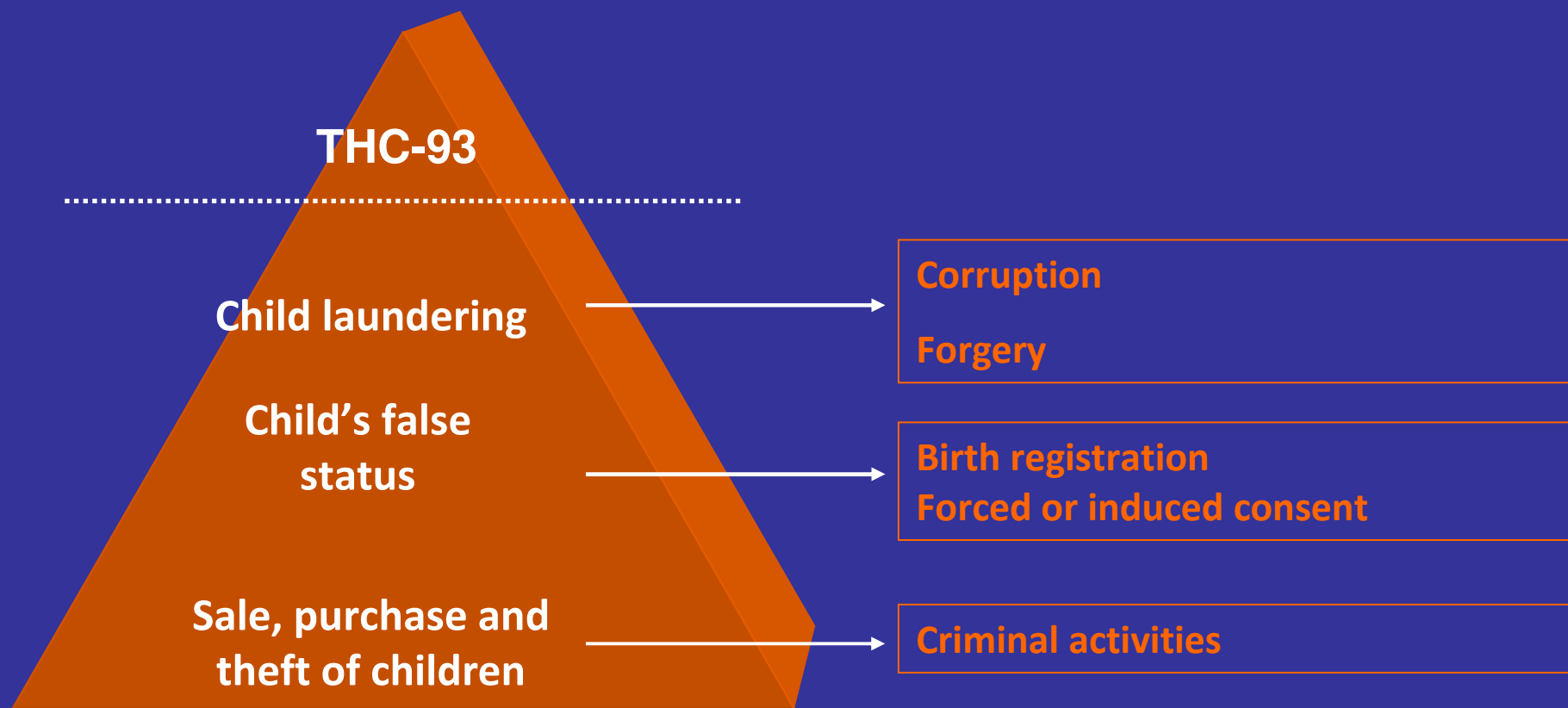
- Identify the real needs
- Check OAA activities
- Reinforce legislative arsenals

Countries of origin and receiving countries

- Educate public opinions
- Reflect on a definition of « trade / traffic » in ICA
- Coordinate and exchange information on suspicious intermediaries
- Limit to the minimum exchanges of money



THC-93 position in the intercountry adoption system



Thank you

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